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**FEB 18 2004**

**DIRECTOR'S OFFICE  
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ANGENEHM LAW FIRM, LTD  
P.O. BOX 48755  
COON RAPIDS, MN 55448

In re Application of  
Cully T. Cederberg et al.  
Application No. 09/382,709  
Filed: August 23, 1999  
For: THE DOOR JAMB

DECISION ON PETITION  
TO WITHDRAW THE  
HOLDING OF ABANDONMENT

This is in response to applicant's renewed petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO) on November 18, 2003.

The petition is **DISMISSED**.

A review of the file record reveals that a Notice of Allowability and a Notice of Allowance and Fee Due were mailed to applicants on May 6, 2002. Also a Notice to File Corrected Application Papers was mailed on August 20, 2002 giving applicant 30 days to correct informalities. Applicant did not respond to either the Notice of Allowance mailed on May 6, 2002 or the Notice mailed August 20, 2002. Since applicant did not respond to the above Notice to File Corrected Application Papers, the application was abandoned and a Notice to that effect was mailed on February 4, 2003. Applicants also failed to respond to the above Notice of Allowance.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;

- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and
- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Applicant has failed to comply with requirements (2) and (3) above.

As to requirement (2), although the applicant has provided a statement attesting to the fact that a search of the file jacket and docket records was conducted, it appears that a search of Mr. N. Paul Friederichs's copy of the file was conducted rather than the file of Mr. Norman P. Friederichs, original attorney of record.

As to requirement (3), the docket record attached with the renewed petition shows only two entries, one on May 8, 2002 and another on November 18, 2003. The Notice of Allowance and Fees Due was mailed on May 6, 2002 and the Notice to File Corrected Application Papers was mailed on August 20, 2002, both to the address of record at that time. Applicant filed a Revocation and Power of Attorney on April 16, 2003 and a Notice of Acceptance was mailed by the Office on August 26, 2003 and the correspondence address was changed to the address above. Thus, the docket record of consequence is the record associated with the mailing address prior to August 26, 2003; namely, Mr. Norman P. Friederichs docket record. According to Mr. N. Paul Friederichs's declaration attached to the Petition filed April 16, 2003, the Minnesota Lawyers Board of Professional Responsibility ("Board") took control of Mr. Norman P. Friederichs law firm while he was in the hospital. The declaration further states that the Board organized files and sent the files and paperwork to the clients and that some client paperwork was inadvertently misdirected. A docket report covering this period would be necessary to evaluate whether or not documents were received at the address of record at that time.

It should be noted that the Office file currently contains copies of mailed documents (including the Notice of Allowance in question) which were mailed to the correct address of record but which were returned to the Office because they were undeliverable or possibly inadvertently mailed back to the Office by the Minnesota Lawyers Board.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

**SUMMARY:** Petition to Withdraw Abandonment is **DISMISSED**.

The application is being forwarded to the Office of Petitions to act on applicant's alternative Petition to Revive for Unavoidable Delay or Revive for Unintentional Delay.



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SNM /mjz : 2/13/04